THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 23195 of 2006

DATE: 08-11-2006

Between:

M. Kursheed Hussain

..Petitioner.

And

The Regional Manager, A.P.S.R.T.C.,
Mahabubnagar Region at Mahabubnagar and another.

..Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 23195 of 2006

O R D E R:

The grievance of the petitioner urged in this writ petition is to direct the respondents to pay the gratuity amount for the period 31-03-1982 to 03-05-1993 during which period he was out of employment.

The petitioner, while working as Conductor at Mahabubnagar Bus Depot, was removed from service on the charge of cash and ticket irregularities. Against the order of removal from service, petitioner raised an industrial dispute being I.D.No.10 of 1992 on the file of learned Labour Court-III, Hyderabad. By the Award dated 24-11-1992, the I.D.No. 10 of 1992 was disposed of directing reinstatement of the petitioner into service without any back wages, but entitled to continuity of service together with attendant benefits. By virtue of the Award of the Labour Court, the petitioner was reinstated into service and subsequently got promotion as A.D.C. On attaining the age of superanuation, he retired from service on 03-05-1993. It is alleged that the petitioner has not been paid the gratuity for the period he was out of employment that is from the date of removal to the date of reinstatement (i.e., from 31-03-1982 to 03-05-1993). Since the Labour Court directed reinstatement with continuity of service together with

attendant benefit, but without back wages, it is alleged, he is entitled for the gratuity for the period he was out of employment.

The contention of the respondents is that since the petitioner has not physically worked for the said period, he is not entitled for the gratuity during the said period.

The learned counsel for the petitioner submits that the issue involved in this writ petition is squarely covered by a decision of this court in **M. RAMA RAO v. ASST. TRAFFIC MANAGER, APSRTC, HYDERABAD AND ANOTHER** [1] wherein this court held that in a case where under Section 11 of the Industrial Disputes Act, 1947 the Labour Court has set aside the order of removal of an employee and directed that the employee be reinstated into service with continuity of service, the management could not deny the payment of gratuity to the employee on his retirement for the period during which he was out of employment as a result of the illegal order of removal.

In the light of the judgment of this court referred to above and the submission of the parties that the decision of this court in the said judgment governs the case, the writ petition is allowed in terms of the judgment of this court referred to above. No order as to costs.

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N.V. RAMANA, J

Dated: 08 -11-2006
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[1] . 1998 (3) ALD 76.